

1 BILL NO. S-83-09-09

2 SPECIAL ORDINANCE NO. S-192-82

3 AN ORDINANCE approving a Contract  
4 by the City of Fort Wayne by and  
5 through its Board of Public Works  
6 and Gaines Construction for Res.  
#5979-83, East Central IX, Phase  
II.

7 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL  
8 OF THE CITY OF FORT WAYNE, INDIANA:

9 SECTION 1. The annexed Contract, made a part hereof,  
10 by the City of Fort Wayne by and through its Board of Public  
11 Works and Gaines Construction, for Res. #5979-83, East Central IX,  
12 Phase II, is hereby ratified, and affirmed and approved in all  
13 respects. The work under said Contract requires:

14 improvement of curbs, sidewalks, wingwalks,  
15 and drive approaches within the following  
streets:

16 HUGH STREET - Francis to Hanna  
17 HANNA STREET - Hanna to Lewis  
18 ALTERNATE I - Hanna Street - Lewis to Madison  
ALTERNATE II - Hanna Street - Madison to Jefferson  
ALTERNATE III - New Catch Basins

19 the Contract price is Seventy-Six Thousand Nine Hundred Twenty-  
20 Four and 50/100 Dollars (\$76,924.50).

21 SECTION 2. Prior Approval was received from Council  
22 with respect to this Contract on May 24, 1983. Two (2) copies  
23 of the Contract attached hereto are on file with the City Clerk,  
24 and are available for public inspection.

25 SECTION 3. That this Ordinance shall be in full force  
26 and effect from and after its passage and any and all necessary  
27 approval by the Mayor.

28  
29  
30 APPROVED AS TO FORM  
31 AND LEGALITY

32 Samuel J. Talarico  
33 Councilmember

34 Bruce O. Boxberger, City Attorney



Read the first time in full and on motion by Talarico, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: 9-13-83

Sandra E. Kennedy  
CITY CLERK

Read the third time in full and on motion by Talarico, seconded by Joe Quarta, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCRUGGS</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____	_____

DATE: 9-27-83

Sandra E. Kennedy  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (~~GENERAL~~) (~~ANNEXATION~~) (~~SPECIAL~~) (~~APPROPRIATION~~) ORDINANCE (RESOLUTION) NO. S-192-83 on the 27th day of September, 1983.

ATTEST:

(SEAL)

Sandra E. Kennedy

Ray A. Ebert

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of Sept, 1983, at the hour of 11:30 o'clock A.M., E.S.T.

Sandra E. Kennedy

CITY CLERK

Approved and signed by me this 30th day of September 1983, at the hour of 12 o'clock P.M., E.S.T.

Win Moses, Jr.

WIN MOSES, JR. - MAYOR



# CONTRACT

Concrete Removal	Two dollars and thirty cents per square yard	2.30
Curb Removal	One dollar and twenty-five cents per lineal foot	1.25
2' Curbface Walk	Two dollars and seventy cents per square foot	2.70
4" Walk	One dollar and forty cents per square foot	1.40
6" Wingwalk w/Ramp	One dollar and eighty cents per square foot	1.80
8" Drive/Alley Approach	Eighteen dollars and no cents per square yard	18.00
6" Drive Approach	Sixteen dollars and no cents per square yard	16.00
Backfill for Seed	No dollars and ten cents per ton	.10
Seed, Mulch & Fertilizer	One dollar and no cents per square yard	1.00



The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5979-83 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally  
\*See Liquidated Damages Provision  
and in all respects completed on or before \*Sept. 30, 1983 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said Date \_\_\_\_\_, 19\_\_\_\_ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 10<sup>th</sup>

day of August, 1983

ATTEST:

Daniel Daines  
Corporate Secretary

GAINES CONSTRUCTION COMPANY

BY: Henry Daines

ITS:

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

[Signature]  
Steve R Collins  
[Signature]  
Its Board of Public Works and Mayor.

ATTEST:

Selen V. Goshenow  
Secretary and Clerk



## Contract for Improvement Resolution No. 5979-83

Continued

Asphalt Patching	No dollars and ten cents per lineal foot	0.10
Total Base Bid	Thirty-nine thousand, two hundred and sixty-three dollars and ninety cents	\$39,263.90

ALTERNATE I - Hanna (Lewis to Madison)

Concrete Removal	Two dollars and thirty cents per square yard	2.30
4" Walk	One dollar and forty cents per square foot	1.40
Curb Removal	One dollar and twenty-five cents per lineal foot	1.25
Type III Curb	Six dollars and no cents per lineal foot	6.00
Tree Removal	Two hundred dollars and no cents per each	200.00
8" Drive/Alley Approach	Eighteen dollars and no cents per square yard	18.00
6" Wingwalk w/Ramp	One dollar and eighty cents per square foot	1.80
Backfill for Seed	No dollars and ten cents per ton	0.10
Seed, Mulch & Fertilizer	One dollar and no cents per square yard	1.00
Asphalt Patching	No dollars and ten cents per lineal foot	0.10
Total Alternate I Bid	Fourteen thousand, five hundred and sixty dollars and sixty cents	\$14,560.60

ALTERNATE III

Remove & Replace Type I-C Catch Basin	One thousand, one hundred dollars and no cents per each	1,100.00
Total Alternate III Bid	Twenty-three thousand, one hundred dollars and no cents	23,100.00
Grand Total	Seventy-six thousand, nine hundred and twenty-four dollars and fifty cents	\$76,924.50

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.



PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we GAINES CONSTRUCTION COMPANY  
as Principal, and the State Auto Mutual Insurance Co.  
Columbus, Ohio, a corporation organized under the laws of the  
State of Ohio, and duly authorized to transact business in the  
State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne,  
Indiana, an Indiana Municipal Corporation in the sum of SEVENTY-SIX THOUSAND,  
NINE HUNDRED AND TWENTY-FOUR DOLLARS AND FIFTY CENTS -----  
(\$ 76,924.50-----), for the payment whereof well and truly to be made,  
the Principal and Surety bind themselves, their heirs, executors, administrators,  
successors and assigns, jointly and severally, firmly by these presents. The  
condition of the above obligation is such that

WHEREAS, the Principal did on the 10<sup>th</sup> day of August, 19 83,  
enter into a contract with the City of Fort Wayne to construct

Improvement Resolution No. 5979-83

To improve curbs, sidewalks, wingwalks, and drive approaches within the following  
streets:

HUGH STREET - Francis to Hanna  
HANNA STREET - Hayden to Lewis

ALTERNATE I - HANNA STREET - Lewis to Madison  
ALTERNATE III - New Catch Basins

This area shall also be known as EAST CENTRAL IX, PHASE II.

at a cost of \$ 76,924.50-----, according to certain plans and specifications  
prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement  
provides:

1. That said improvement shall be completed according to said plans and  
specifications, and contractor shall warrant and guarantee all work, mater-  
ial, and conditions of the improvement for a period of three (3) years from  
the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after comple-  
tion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifica-  
tions, and repairs as required by the City within thirty (30) days after  
notice.



WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

GAINES CONSTRUCTION COMPANY  
(Contractor)

BY: Henry Gaines  
ITS: \_\_\_\_\_ Pres.

ATTEST: ATTEST:

Darryl Gaines  
Sec.  
(Title)

State Auto Mutual Insurance Co.  
Surety

\*BY: Eileen Fawcett  
Authorized Agent Eileen Fawcett  
(Attorney-in-Fact)

\*If signed by an agent, power of attorney must be attached

ATTACH POWER OF ATTORNEY



PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

----- GAINES CONSTRUCTION COMPANY -----

(Name of Contractor)

-----  
217 W. Washington Center Road, Fort Wayne, Indiana  
-----

(Address)

a Corporation, hereinafter called Principal,  
(Corporation, Partnership or Individual)

and State Atuo Mutual Insurance Co. Columbus, Ohio  
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of SEVENTY-SIX THOUSAND, NINE HUNDRED AND TWENTY-FOUR DOLLARS AND FIFTY CENTS -----

for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 10<sup>th</sup> day of August, 19 83, for the construction of:

Improvement Resolution No. 5979-83

To improve curbs, sidewalks, wingwalks, and drive approaches within the following streets:

HUGH STREET - Francis to Hanna

HANNA STREET - Hayden to Lewis

ALTERNATE I - HANNA STREET - Lewis to Madison

ALTERNATE III - New Catch Basins

This area shall also be known as EAST CENTRAL IX, PHASE II.

at a cost of SEVENTY-SIX THOUSAND, NINE HUNDRED AND TWENTY-FOUR DOLLARS AND FIFTY CENTS -----

(\$ 76,924.50 -----), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.



NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subconstructor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in three counter-  
(number)  
parts, each one of which shall be deemed an original, this 2 day of  
Aug., 1983.

(SEAL)

ATTEST:

Donna D. Haines  
(Principal) Secretary

Carol J. Bentler  
Witness as to Principal

(Address)

Carol J. Bentler  
Witness as to Surety

1666 Spy Run Ave.  
(Address) Fort Wayne, Indiana

GAINES CONSTRUCTION COMPANY  
Principal

BY Henry Gaines  
(Title)

217 W. Washington Center Rd.  
Fort Wayne, Indiana (Address)

State Auto Mutual Insurance Co.  
Surety  
BY Eileen Favory  
Attorney-in-Fact (Authorized Agent)

1666 Spy Run Ave.  
(Address)  
Fort Wayne, Indiana

NOTE: Date of Bond must not be prior to date of Contract.  
If Contractor is Partnership, all partners should execute bond.



BILL NO. S-83-09-09

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN  
ORDINANCE approving a Contract by the City of Fort Wayne by and  
through its Board of Public Works and Gaines Construction for Res.  
#5979-83, East Central IX, Phase II

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

SAMUEL J. TALARICO, CHAIRMAN

VICTURE L. SCRUGGS, VICE CHAIRMAN

MARK E. GIAQUINTA

PAUL M. BURNS

ROY J. SCHOMBURG

*Samuel J. Talarico*

*Victure Scruggs*

*Mark E. Giaquinta*

*Paul M. Burns*

*Roy J. Schomburg*

*Sandra E. Kennedy*

*Concurred 9-27-83*



10412  
Admn. Appr.

TITLE OF ORDINANCE Contract for Res. 5979-83, East Central IX, Phase II, Gaines Const., Contractor

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE This Contract for Res. 5979-83, East Central IX, Phase II,  
is for improvement of curbs, sidewalks, wingwalks, and drive approaches within the  
following streets: HUGH STREET - Francis to Hanna Gaines Const., Contractor

HANNA STREET - Hanna to Lewis

ALTERNATE I - Hanna Street - Lewis to Madison

ALTERNATE II - Hanna Street - Madison to Jefferson

ALTERNATE III - New Catch Basins

PRIOR APPROVAL RECEIVED 5/24/83

EFFECT OF PASSAGE Improvement of East Central Neighborhood

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$76,924.50

ASSIGNED TO COMMITTEE